

for the interstate movement of regulated articles if an inspector has previously made the determination that the article is eligible for a certificate in accordance with § 301.92-5(a) of this subpart.

(c) Any certificate that has been issued may be withdrawn, either orally or in writing, by an inspector if he or she determines that the holder of the certificate has not complied with all conditions in this subpart for the use of the certificate. If the withdrawal is oral, the withdrawal and the reasons for the withdrawal will be confirmed in writing as promptly as circumstances allow. Any person whose certificate has been withdrawn may appeal the decision in writing to the Administrator within 10 days after receiving the written notification of the withdrawal. The appeal must state all of the facts and reasons upon which the person relies to show that the certificate was wrongfully withdrawn. As promptly as circumstances allow, the Administrator will grant or deny the appeal, in writing, stating the reasons for the decision. A hearing will be held to resolve any conflict as to any material fact. Rules of practice concerning a hearing will be adopted by the Administrator.

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§ 301.92-6 Compliance agreements and cancellation.

(a) Any person engaged in growing, processing, handling, or moving regulated articles other than nursery stock may enter into a compliance agreement when an inspector determines that the person understands this subpart, agrees to comply with its provisions, and agrees to comply with all the provisions contained in the compliance agreement.⁵

(b) Any compliance agreement may be canceled, either orally or in writing, by an inspector whenever the inspector finds that the person who has entered

⁵Compliance agreement forms are available without charge from the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Invasive Species and Pest Management, 4700 River Road Unit 134, Riverdale, MD 20737-1236, and from local offices of the Plant Protection and Quarantine, which are listed in telephone directories.

into the compliance agreement has failed to comply with this subpart. If the cancellation is oral, the cancellation and the reasons for the cancellation will be confirmed in writing as promptly as circumstances allow. Any person whose compliance agreement has been canceled may appeal the decision, in writing, within 10 days after receiving written notification of the cancellation. The appeal must state all of the facts and reasons upon which the person relies to show that the compliance agreement was wrongfully canceled. As promptly as circumstances allow, the Administrator will grant or deny the appeal, in writing, stating the reasons for the decision. A hearing will be held to resolve any conflict as to any material fact. Rules of practice concerning a hearing will be adopted by the Administrator.

§ 301.92-7 Assembly and inspection of regulated articles.

(a) Any person (other than a person authorized to issue certificates under § 301.92-5(b) of this subpart) who desires to move a regulated article interstate accompanied by a certificate must notify an inspector⁶ as far in advance of the desired interstate movement as possible, but no less than 14 days before the desired interstate movement.

(b) The regulated article must be assembled at the place and in the manner the inspector designates as necessary to comply with this subpart.

§ 301.92-8 Attachment and disposition of certificates.

(a) A certificate required for the interstate movement of a regulated article must, at all times during the interstate movement, be:

(1) Attached to the outside of the container containing the regulated article; or

(2) Attached to the regulated article itself if not in a container; or

(3) Attached to the consignee's copy of the accompanying waybill. If the certificate is attached to the consignee's copy of the waybill, the regulated article must be sufficiently described on the certificate and on the

⁶See footnote 3 of this subpart.

waybill to identify the regulated article.

(b) The certificate for the interstate movement of a regulated article must be furnished by the carrier to the consignee listed on the certificate upon arrival at the location provided on the certificate.

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§ 301.92–9 Costs and charges.

The services of the inspector during normal business hours (8 a.m. to 4:30 p.m., Monday through Friday, except holidays) will be furnished without cost. The user will be responsible for all costs and charges arising from inspection and other services provided outside normal business hours.

§ 301.92–10 Treatments.

The following methods may be used to treat the regulated articles listed for *Phytophthora ramorum*:

(a) Soil must be heated to a temperature of at least 180 °F for 30 minutes in the presence of an inspector.

(b) Wreaths, garlands, and greenery of arrowwood (*Viburnum × bodnantense*), big leaf maple (*Acer macrophyllum*), black oak (*Quercus kelloggii*), California bay laurel (*Umbellularia californica*), California buckeye (*Aesculus californica*), California coffeeberry (*Rhamnus californica*), California honeysuckle (*Lonicera hispidula*), coast live oak (*Quercus agrifolia*), huckleberry (*Vaccinium ovatum*), madrone (*Arbutus menziesii*), manzanita (*Arctostaphylos manzanita*), rhododendron (*Rhododendron* species, including azalea), Shreve's oak (*Quercus parvula* var. *shrevei*), tanoak (*Lithocarpus densiflorus*), and Toyon (*Heteromeles arbutifolia*) must be dipped for 1 hour in water that is held at a temperature of at least 160 °F.

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§ 301.92–11 Inspection and sampling protocol.

(a) *Annual nursery inspection and sampling.* To meet the requirements of § 301.92–5(a)(1)(iv) of this subpart, nurseries that ship regulated articles of nursery stock interstate must be in-

spected for symptoms of *Phytophthora ramorum* annually in accordance with this section.

(1) If the nursery contains 100 or fewer regulated articles, an inspector will inspect each regulated article. If the nursery contains more than 100 regulated articles, an inspector will inspect 100 regulated articles and at least 2 percent of the number of regulated articles contained in the nursery that exceeds 100. The regulated articles to be inspected will be randomly selected from throughout the nursery.

(2) If symptomatic plants are found upon inspection, the inspector must collect at least one sample per symptomatic plant.

(3) If fewer than 40 symptomatic plants are found in a nursery during an annual inspection, the inspector must collect samples from nonsymptomatic regulated articles of nursery stock so that the total number of sampled plants is at least 40.

(4) Samples must be labeled and sent for testing to a laboratory approved by APHIS.

(5) If any regulated articles within a nursery are found to be infected with *Phytophthora ramorum*, the nursery will be prohibited from moving regulated articles interstate until such time as an inspector can determine that the nursery is free of *Phytophthora ramorum*.

(b) *Inspection and sampling of individual shipments.* To meet the requirements of § 301.92–5(a)(1)(iv) of this subpart, each shipment of regulated articles of nursery stock intended for interstate movement must be inspected for symptoms of *Phytophthora ramorum* in accordance with this section.

(1) If a shipment contains 100 or fewer regulated articles, an inspector will inspect each regulated article. If a shipment contains more than 100 regulated articles, an inspector will inspect 100 regulated articles and at least 2 percent of the number of regulated articles contained in the shipment that exceeds 100. The regulated articles to be inspected will be randomly selected.

(2) If symptomatic plants are found upon inspection, the inspector will collect at least one sample per symptomatic plant, and one sample per regulated article of nursery stock that is in